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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2000-155

13 **CONSTANCE LOUISE BROWN**
14 253 Blythedale Avenue
San Francisco, CA 94134

**PETITION TO REVOKE
PROBATION**

15 Registered Nurse License No. 289026

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
21 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
22 Registered Nursing, Department of Consumer Affairs.

23 2. On or about March 31, 1978, the Board of Registered Nursing issued
24 Registered Nurse License No. 289026 to Constance Louise Brown (Respondent). The license
25 expired on February 28, 2007.

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PRIOR DISCIPLINE

3. In a disciplinary action entitled "In the Matter of Accusation Against Constance L. Brown," Case No. 2000-155, the Board of Registered Nursing issued a decision, effective February 28, 2005, in which Respondent's Registered Nurse License was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years, with certain terms and conditions. A copy of the decision is attached as Exhibit A and is incorporated by reference.

FIRST CAUSE TO REVOKE PROBATION

(Obey all Laws)

4. At all times after the effective date of Respondent's probation, Probation Condition No. 1 stated:

Obey All Laws. Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" X 2" photograph of herself within 45 days of the effective date of the final decision.

5. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 1, referenced above, in that she failed to submit fingerprint cards and failed to submit a 2" X 2" photograph of herself.

SECOND CAUSE TO REVOKE PROBATION

(Failed to Submit Written Reports)

6. At all times after the effective date of Respondent's probation, Probation Condition No. 5 stated:

Submit Written Reports. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verifications of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

7. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 5, referenced above, in that she failed to submit the Probationer Self-Report Survey, due on December 16, 2005. Respondent further failed to submit her Quarterly Report for April, 2007 through June, 2007 and her Quarterly Report for July, 2007 through September, 2007.

THIRD CAUSE TO REVOKE PROBATION

(Failed to Function as a Registered Nurse)

8. At all times after the effective date of Respondent's probation, Probation Condition No. 6 stated:

Function as a Registered Nurse. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board. For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse. If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition.

9. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 6, referenced above, in that she failed to work as a registered nurse for a minimum of 24 hours per week for 6 consecutive months.

FOURTH CAUSE TO REVOKE PROBATION

(Failed to Complete Nursing Course)

10. At all times after the effective date of Respondent's probation, Probation Condition No. 10 stated:

Complete a Nursing Course(s). Respondent, at her own expense, shall enroll and successfully complete course work relevant to the practice of registered nursing. Respondent shall be suspended from the practice of registered nursing until she has successfully completed such course work.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course or courses. The Board shall return the original documents to Respondent after photocopying them for its records.

11. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 10, referenced above, in that she failed to complete the following required assigned courses: four to six hours course work in Professional Ethics/Legal Aspects of Nursing and twelve to sixteen hours in nursing related courses.

FIFTH CAUSE TO REVOKE PROBATION

(Failure to Pay Cost Recovery)

12. At all times after the effective date of Respondent's probation, Probation Condition No. 11 stated:

Cost Recovery. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$7,473.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

13. Respondent's probation is subject to revocation because she failed to comply with Probation Condition No. 11, referenced above, in that she failed to pay any cost recovery during the period of probation and currently owes \$7,473.00.

SIXTH CAUSE TO REVOKE PROBATION

(Failed to Undergo Mental Health Examination)

14. At all times after the effective date of Respondent's probation, Probation Condition No. 13 stated:

Mental Health Examination. Respondent shall, within 45 days of the effective date of this Decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendation to the Board. All costs are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent. If Respondent is determined to be unsafe to practice safely as a registered nurse, the licensed mental health care

1 practitioner making this determination shall immediately notify the
2 Probation Program and Respondent by telephone and in writing. Respondent
3 shall immediately cease practice and until notified by the Probation Monitor.
4 During this period of suspension, Respondent shall not engage in any practice for
5 which a license issued by the Board is required, until the Probation Monitor has
6 notified Respondent that a mental health determination permits Respondent
7 to resume practice.

8 15. Respondent's probation is subject to revocation because she failed to
9 comply with Probation Condition No. 13, referenced above, in that she failed to submit to the
10 Board a report from her mental health examination.

11 **SEVENTH CAUSE TO REVOKE PROBATION**

12 **(Failed to Complete Therapy)**

13 16. At all times after the effective date of Respondent's probation, Probation
14 Condition No. 14 stated:

15 **Therapy or Counseling Program.** Respondent, at her expense, shall
16 participate in an on-going counseling program until such time as the Board
17 releases him/her from this requirement and only upon the recommendation
18 of the counselor. Written progress reports from the counselor will
19 be required at various intervals.

20 17. Respondent's probation is subject to revocation because she failed to
21 comply with Probation Condition No. 14, referenced above, in that she failed to submit any
22 verification of on going therapy or counseling.

23 **EIGHTH CAUSE TO REVOKE PROBATION**

24 **(Failed to Fully Comply With Probation Program)**

25 18. At all times after the effective date of Respondent's probation, Probation
26 Condition No. 2 stated:

27 **Comply with the Board's Probation Program.** Respondent shall fully
28 comply with the terms and conditions of the Probation Program established by the
Board and cooperate with representatives of the Board in its monitoring
and investigation of the Respondent's compliance with the Probation
Program. Respondent shall inform the Board in writing within no more
than 15 days of any address change and shall at all times maintain an active,
current license status with the Board, including during any period of
suspension.

19 19. Respondent's probation is subject to revocation because she failed to
20 comply with Probation Condition #2, referenced above, in that she failed to comply with

1 Conditions No. 1, No. 5, No. 6, No. 10, No. 11, No. 13, and No. 14., as set forth above.

2 Respondent further failed to maintain an active, current license. Respondent's license expired on
3 February 28, 2007.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking the probation that was granted by the Board of Registered
8 Nursing in Accusation No. 2000-115 and imposing the disciplinary order that was stayed thereby
9 revoking Registered Nurse License No. 289026 issued to Constance Louise Brown;

10 2. Taking such other and further action as deemed necessary and proper.

11
12 DATED: 2/18/08

13 Ruth Ann Terry
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
CONSTANCE L. BROWN)
142 LELAND AVENUE)
SAN FRANCISCO, CA 94134)
Registered Nurse License No.)
289026)
Respondent)

CASE NO. 2000-155

OAH NO. N-2000060199

ORDER CORRECTING CLERICAL ERROR IN
THE ORDER OF DECISION AFTER NONADOPTION


On its own motion, the Board of Registered Nursing finds that there is a clerical error in the Order of the Decision After NonAdoption in the above-entitled matter and that such a clerical error should be corrected so that probation condition no. (13) accurately reflects the Board's recommended probation condition no. (13).

IT IS HEREBY ORDERED that probation condition no. (13) contained in the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the Decision. The attached Decision reflects the corrected probation term.

"This Decision shall become effective on July 4th, 2001."

IT IS SO ORDERED this 6th day of July, 2001.

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


RUTH ANN TERRY, MPH, RN
Executive Officer

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

CONSTANCE L. BROWN
142 Leland Avenue
San Francisco, CA 94134

Registered Nurse License No. 289026

Respondent

Case No. 2000-155

OAH No. N-2000060199

DECISION AFTER NONADOPTION

This matter was heard before Robert R. Coffman, Administrative Law Judge, Office of Administrative Hearings, State of California, in Oakland, California, on December 8, 2000.

Terence Rayner, Attorney at Law, represented the respondent.

Lynne K. Dombrowski, Deputy Attorney General, represented the complainant.

The Administrative Law Judge issued his Proposed Decision on December 15, 2000. The Board of Registered Nursing ("Board") declined to adopt the Proposed Decision and issued its Notice of Nonadoption of Proposed Decision and ordering of the hearing transcript on February 9, 2001. On April 3, 2001, the Board issued its Order Fixing Date for Submission of Written Argument. The time for filing written argument in this matter having expired, the entire record, including the transcript of said hearing and written argument received from respondent's attorney, having been read and considered by the Board, pursuant to Government Code section 11517, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. Ruth Ann Terry made the accusation in her official capacity as the Executive Officer of the Board of Registered Nursing of the State of California.

2. On or about March 31, 1978, the Board of Registered Nursing (Board) issued Registered Nurse License Number 289026 to Constance L. Brown (respondent). The license was in full force and effect at all times relevant herein and will expire on February 28, 2001, unless renewed.

3. On April 18 and 19, 1998, respondent was on duty as a Registered Nurse during the night shift at the Medical Surgical Telemetry Unit, St. Mary's Medical Center, San Francisco, California.

In April 1998 respondent was working out of a nurse's registry, but she had worked at St. Mary's on prior occasions.

While on duty at approximately 1:55 a.m. on April 19, 1998, respondent administered to patient G.L. 5 mg of Dilaudid (hydromorphone hydrochloride), a Schedule II controlled substance and a narcotic analgesic used for pain relief. The Dilaudid was administered IV push. Approximately five minutes after respondent administered the Dilaudid the patient went into cardiac arrest. He could not be revived by the nursing staff and the Code Blue team.

The physician's order for G.L. was .5 mg, not 5 mg. Respondent administered the 5 mg dosage based on the patient's PRN Medication Record, which incorrectly listed the dosage as 5 mg. The error on the medication record was made by another Registered Nurse who recopied the list of medications from the prior four day medication record. The prior record, for the period April 15 through April 18, correctly listed the dosage at .5 mg, but the nurse mistakenly copied it as 5 mg on the record for the period April 19-22.

Respondent failed to question the transcribed order of 5 mg, a dosage in excess of the normal range for Dilaudid. A dosage of 5 mg, IV push, is an extremely high dosage, acceptable for a patient with a high tolerance for narcotic medications or for a patient, such as a cancer patient, suffering from pain that is not relieved by a lower dosage. The danger of administering such a high dosage is that it could lead to cardiac arrest, particularly in a fragile patient such as G.L.

Standards of nursing practice required respondent to question the transcribed record for a dosage of Dilaudid in excess of the normal range. She failed to do so. Respondent should have questioned the dosage by one or more of the following methods: checking the physician's orders which were available at the nurses station; checking with the physician; checking with the pharmacist on duty; checking the hospital's written policy on the administration of Dilaudid which was available at the nurses station.

Respondent states that in administering 5 mg Dilaudid she relied in part on the PRN record for the prior four days, April 15-18. Respondent's assertion, that when she was on duty on the 19th, the April 15-18 PRN record listed the dosage at 5 mg, was not credible. It

clearly listed a dosage of .5 mg. The patient was given the correct dosage of .5 mg twice on April 15, once on April 17, and three times on April 18.

Respondent advised another nurse she was administering Dilaudid to the patient. The nurse thought or assumed that respondent said .5 mg. Respondent contends she said 5 mg. Standards of nursing practice do not allow the nurse administering the medication to rely on such equivocal conduct. The nurse administering the medication is responsible for its proper administration.

4. Respondent failed to alert the physicians performing resuscitative efforts that she had just administered 5 mg Dilaudid to the patient. If she had done so a drug could have been given to the patient to counteract the Dilaudid. Respondent's assertion, that she advised a physician participating in resuscitative efforts that she had just administered 5 mg of Dilaudid, was not credible.

5. It was not established that the 5 mg dosage of Dilaudid caused G.L.'s death. However, a risk of administering such a high dosage of Dilaudid is that it could cause or contribute to cardiac arrest.

G. L. was a 56 year old male admitted to the hospital for evaluation and treatment of a one week history of intermittent abdominal pain and anorexia. He was a fragile patient with a history of end-stage cardiomyopathy, chronic renal disease, gouty arthritis, and diabetes mellitus. Dilaudid must be used with extreme caution in patients with renal disease.

6. Respondent has been a registered nurse since 1978. She was a licensed vocational nurse for approximately 10 years prior to becoming a registered nurse. She has worked for a nursing registry for the past 6 years. She currently works approximately 36 hours per week.

7. The Board's reasonable costs of investigation and prosecution of this matter are in the amount of \$7,473.

LEGAL CONCLUSIONS

1. Cause was established for discipline under section 2761 of the Business and Professions Code (Code) under the facts set forth in Finding 3 in that respondent's conduct constituted gross negligence within the meaning of section 2761 and section 1442 of Title 16 of the California Code of Regulations.

2. Respondent's conduct set forth in Finding 3 constitutes incompetence under section 2761 of the Code and section 1443.5 of the Regulations, and constitutes cause for discipline under section 2761.

3. Respondent's conduct set forth in Finding 4 constitutes incompetence and gross negligence under section 2761 of the Code and sections 1442 and 1443.5 of the Regulations, and as such constitutes cause for discipline under section 2761.

respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition.

7. Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board. Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

8. Respondent shall obtain prior approval from the Board regarding respondent's *level of supervision and/or collaboration before commencing any employment as a registered nurse*. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

9. Respondent shall not work, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

Respondent shall not be employed by or through a nurse's registry unless the Board or its designee makes a prior determination that such employment is in compliance with the practice and supervision requirements set forth in conditions 7 and 8, and respondent makes the administrator of each hospital or establishment to which she is sent aware of the discipline imposed by this decision by providing her direct supervisor and administrator at the hospital or establishment with a copy of the decision and order in this matter prior to beginning employment.

10. Respondent, at her own expense, shall enroll in and successfully complete course work relevant to the practice of registered nursing. Respondent shall be suspended from the practice of registered nursing until she has successfully completed such course work.

Respondent shall obtain prior approval from the Board before enrolling in the course or courses. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course or courses. The Board shall return the original documents to respondent after photocopying them for its records.

11. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$7,473. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

12. If respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

13. Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Probation Program and respondent by telephone and in writing. Respondent shall immediately cease practice and may not resume practice until notified by the Probation Monitor. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Probation Monitor has notified respondent that a mental health determination permits respondent to resume practice.

14. Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

IT IS SO ORDERED.

The effective date of this Decision is July 4th,, 2001.

DATED: June 4th, 2001



SANDRA ERICKSON

Board President

Board of Registered Nursing

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of the State of California
2 LYNNE DOMBROWSKI, State Bar No. 128080
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6 Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:

12 CONSTANCE L. BROWN
142 Leland Avenue
13 San Francisco, CA 94134

14 Registered Nurse License No. 289026

15 Respondent.

Case No.2000-155

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this accusation
20 solely in her official capacity as the Executive Officer, Board of Registered Nursing, Department
21 of Consumer Affairs, State of California.

22 2. On or about March 31, 1978, the Board of Registered Nursing issued
23 Registered Nurse License Number 289026 to Constance L. Brown ("Respondent"). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on February 28, 2001, unless renewed.
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7:

1 D. Respondent showed a lack of knowledge and incompetence in not being
2 familiar with the adequate dose range for Dilaudid and for not questioning the potent amount
3 before administering it to the patient.

4 E. Respondent failed to promptly recognize and notify the medical staff of
5 the overdose administered.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 289026, issued
10 to Constance L. Brown;

11 2. Ordering Constance L. Brown to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3; and

14 3. Taking such other and further action as the Board of Registered Nursing
15 deems necessary and proper.

16
17
18 DATED: 3/20/00

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant